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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,740	10/17/2003	Kazuhiko Takahashi	17144	2814
23389	7590	07/30/2004	EXAMINER	
SCULLY SCOTT MURPHY & PRESSER, PC			PERKEY, WILLIAM B	
400 GARDEN CITY PLAZA			ART UNIT	PAPER NUMBER
GARDEN CITY, NY 11530			2851	

DATE MAILED: 07/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b><i>Office Action Summary</i></b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/688,740	TAKAHASHI ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	William B. Perkey	2851

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1)  Responsive to communication(s) filed on \_\_\_\_.

2a)  This action is **FINAL**.                    2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4)  Claim(s) 1-25 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-7, 10-12 and 16-25 is/are rejected.

7)  Claim(s) 8, 9 and 13-15 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 17 October 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some \* c)  None of:

  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1,2,3.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1, 3, 4, 10, 16, 17, 19, 22, 23 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Ishiguro (U.S. Patent No. 5,940,642).

Ishiguro shows a finder as elements 28-31 in Fig. 1 and a positioning marker as 106A or 106B shown in Fig. 4. Either the positioning marker 106A or 106B is used to position the object to be photographed (whether it be for the purpose of photography or calibration) within the field of view of the CCD array 112. Ishiguro shows a marker image production section as element 106 and image superimposition section as the location 28 of the element 106 in the optical path of the optical viewfinder in Fig. 1. Ishiguro shows all claimed structure.

3. Claims 1, 5, 6, 12, 19-23 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Sannoh et al. (U.S. Patent No. 6,750,914 B2).

Sannoh et al. shows a finder as the display device 7 and a positioning marker presentation member as that part of the display 7 having the markers TM or B1-B3 and S1. Flickering is disclosed at the bottom of column 5. Sannoh et al. shows all claimed structure.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishiguro (U.S. Patent No. 5,940,642).

Ishiguro shows all claimed structure of the invention, as explained above, except for the marker for positioning surrounds an outer edge of the closed region. Instead, the patterns 106A and 106B do not surround the outer edge of the field that is imaged by the CCD array 112. It would have been obvious to one of ordinary skill in the art to modify the patterns of 106A and/or 106B to surround the area in order to achieve a desired visual effect of the field display.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishiguro (U.S. Patent No. 5,940,642) in view of Japanese document no. 2002-218501).

Ishiguro shows the claimed invention, as explained above, except for a stereo photographing apparatus. The Japanese document shows a digital camera that is adapted for stereo photography. It would have been obvious to one of ordinary skill in the art to provide the digital camera of Ishiguro with stereo photography adapter device in order to obtain a versatile camera having both normal and stereo capability.

7. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sannoh et al. (U.S. Patent No. 6,750,914 B2) in view of Mitsuhashi et al. (U.S. Patent No. 6,184,930 B1).

Sannoh et al. shows the claimed invention except for not presenting the marker for positioning in the image reproduction mode. Mitsuhashi et al. discloses a digital camera having a reproduction mode. It would have been obvious to one of ordinary skill in the art to provide the digital camera of Sannoh et al. with an image reproduction mode and not to operate the target position mark generator during the reproduction mode in order to obtain the desirable feature of providing a display of the captured images unhindered by the target position marks.

8. Claims 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sannoh et al. in view of Ferrada Suarez (U.S. Patent No. 5,873,007).

Sannoh et al. shows the claimed invention except for selective display of the marker. Suarezin column 3 lines 48-53 teaches selective display of the markers in the viewfinder display. It would have been obvious to one of ordinary skill in the art at the time of applicants invention to provide the display of Sannoh et al. with selective display of the target position markers in order to obtain unhindered display of the object image.

9. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ishiguro (U.S. Patent No. 5,940,642) or Sannoh et al. (U.S. Patent No. 6,750,914 B2) in view of Okamoto (U.S. Patent No. 6,734,899 B1).

Ishiguro and Sannoh et al. both disclose the step of presenting a marker(s) for positioning an object relative to a camera. Thus, they both show the claimed invention except for presenting an image of a calibration object. Okamoto shows a calibration object presented to a digital camera. It would have been obvious to one of ordinary skill in the art to present a gray balance calibration chart to either the digital camera of Ishiguro or Sannoh et al. in order to obtain the

desirable feature of obtaining a test picture for calibrating the camera parameters or for merely photographic purposes.

***Allowable Subject Matter***

10. Claims 8, 9 and 13- 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The primary reason for indication of patentability of claims 8 and 9 is the claim 8 limitation that the positioning marker presentation member displays description based on a calculation of difference between a position of the image of the object for calibration and that of the marker.

The primary reason for indication of patentability of claims 13 is the limitation that the positioning marker is not presented for positioning during usual photography.

The primary reason for allowance of claims 14 and 15 is the claim 14 limitation that the marker for positioning is not presented during photography for obtaining three dimensional information of the subject.

**Telephone Numbers**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William B. Perkey whose telephone number is (571) 272-2126. The examiner can normally be reached on Monday-Thursday 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Nguyen can be reached on (571) 272-2258. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



William B. Perkey  
Primary Examiner  
Art Unit 2851

WBP:wpb